

When EPA and DEC were in Homer for the April 30th hearing on the NPDES and APDES general permits for discharges from exploration activities in Cook Inlet, Dan Opalski, EPA Region 10 Director of the Office of Water and Watersheds, [promised to provide you some information on how to engage EPA decision-makers on your concerns related to the Oil and Gas Coastal Effluent Limitation Guidelines \(ELGs\)](#). I am sending this message on behalf of Dan.

[The Coastal ELGs](#) at 40 CFR 435 Subpart D prohibit the discharges of oil and gas drilling wastes, including drilling fluids, drill cuttings, produced water, de-watering effluent, and well treatment, completion and workover fluids, except Cook Inlet. [This exemption applies to the coastal waters in upper Cook Inlet north of Kalgin Island \(see the maps in the draft permit and fact sheet\)](#).

EPA's regulations also include ELGs for discharges to offshore waters located seaward of the baseline of the territorial seas, which are [applicable to the rest of the Inlet](#). The Offshore ELGs allow the discharge of oil and gas drilling wastes in all offshore waters around the country, subject to specific limitations and requirements. Currently, Cook Inlet discharge requirements in coastal waters are equivalent to the effluent guidelines within the Offshore ELGs.

[The two permit actions EPA and the State of Alaska we are currently requesting your review and comments are the draft exploration NPDES general permits for discharges to federal and state waters respectively](#). EPA's permit applies the Offshore ELGs, whereas the State's permit incorporates both the Coastal and Offshore ELGs (the Offshore ELGs apply to the territorial seas from the baseline to 3 nautical miles).

ELGs are national guidelines and standards developed by EPA on an industry-by-industry basis, and are intended to represent the greatest pollutant reductions economically achievable. EPA develops these technology-based regulations by collecting and assessing information on the industry's operations; characteristics of the discharges; environmental factors; pollution control technologies or practices; and economic characteristics. EPA identifies the best available technology that is economically achievable for that industry, sets regulatory requirements based on the performance of that technology, and provides the agency's basis in the Development Document. The standards are then incorporated into National Pollutant Discharge Elimination System (NPDES) permits issued by States or EPA regional offices.

The Clean Water Act (CWA) § 304 requires EPA to annually review and, if appropriate, revise effluent guidelines. An Effluent Guidelines Program Plan is required by CWA § 304(m). Prior to publishing the final Plan, EPA must publish a preliminary Plan and take public comment. The EPA Office of Science and Technology (OST) is responsible for developing and updating effluent limitations guidelines and standards. OST is planning to publish a new preliminary Plan in the next month or so. A notice will appear in the Federal Register when the draft Plan is available for comment.

There are two ways to influence the ELG re-evaluation process. One option is to provide information to OST during the public comment period on the preliminary Plan discussed above. The second option is to submit a formal petition to the EPA Administrator outside of a formal comment process. Two examples of this type of petition are attached for your use. While there is no guarantee that a petition will be successful, the storm water ELGs was changed as a result of such a petition. There is

no standard format of a formal petition, but they are generally legal in nature and should include supporting documentation.

While the ELG review and development/revision process is very long and arduous, if successful, removal of the Coastal ELG exemption for Cook Inlet would affect future permit activities in state waters.

EPA understands and appreciates the concerns expressed at the April 30 meeting and during previous agency oil and gas permitting actions in Cook Inlet. We have informed OST once again of your concerns regarding the Coastal ELG exemption and hope the mechanisms described above are helpful as you consider the various ways to share your comments with the agency.